

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eric Rigie	Team: Squad #3	CCRB Case #: 201606686	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 08/02/2016 10:15 PM	Location of Incident: 234 Ralph Avenue	Precinct: 81	18 Mo. SOL 2/2/2018	EO SOL 2/2/2018	
Date/Time CV Reported Wed, 08/03/2016 6:03 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/03/2016 6:03 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DTS Wilson Verdesoto	1006	937685	PSA 3
2. Officers			PSA 3
3. POM Robert Obrien	18045	944854	PSA 3
4. POM Christian Allen	26246	945467	PSA 3

Officer(s)	Allegation	Investigator Recommendation
A.DTS Wilson Verdesoto	Abuse: Detective Wilson Verdesoto stopped § 87(2)(b)	
B.POM Christian Allen	Abuse: Police Officer Christian Allen stopped § 87(2)(b)	
C.POM Robert Obrien	Abuse: Police Officer Robert O'Brien stopped § 87(2)(b)	
D. Officers	Abuse: Officers questioned § 87(2)(b)	
E. Officers	Abuse: Officers stopped § 87(2)(b) and an individual.	
F.DTS Wilson Verdesoto	Abuse: Detective Wilson Verdesoto frisked § 87(2)(b)	
G.DTS Wilson Verdesoto	Abuse: Detective Wilson Verdesoto searched § 87(2)(b)	
H. Officers	Abuse: Officers searched § 87(2)(b) and an individual.	
I.DTS Wilson Verdesoto	Abuse: Detective Wilson Verdesoto refused to provide his name and/ or shield number to § 87(2)(b)	
J.DTS Wilson Verdesoto	Abuse: Detective Wilson Verdesoto arrested § 87(2)(b)	
K.DTS Wilson Verdesoto	Force: Detective Wilson Verdesoto used physical force against § 87(2)(b)	

Case Summary

On August 3, 2016, § 87(2)(b) filed this complaint with the CCRB via telephone.

On August 2, 2016, at approximately 10:15 p.m., in front of 234 Ralph Avenue, § 87(2)(b) was talking to § 87(2)(b) and a male only known as § 87(2)(b). Det. Wilson Verdesoto, PO Christian Allen, and PO Robert O'Brien, of PSA 3, drove up to the group in an unmarked RMP and stopped § 87(2)(b) (**Allegations A, B, and C**). One or more of the officers also questioned § 87(2)(b) asking him what he was doing, where he was going, and why there were so many of them out (**Allegation D**). The officers allegedly stopped § 87(2)(b) and § 87(2)(b) (**Allegation E**). Det. Verdesoto then frisked the outside of § 87(2)(b)'s pants and waist and allegedly searched inside his pockets, waistband, and the pocket on the front of his briefs (**Allegations F and G**). After stopping these individuals, the officers allegedly searched § 87(2)(b) and searched the purses of § 87(2)(b) and § 87(2)(b) (**Allegation H**). § 87(2)(b) told Det. Verdesoto to take his shield out of his shirt. Det. Verdesoto complied with this request, but held his shield up backwards. § 87(2)(b) then repeatedly yelled for Det. Verdesoto to provide his name, but Det. Verdesoto did not respond (**Allegation I**). § 87(2)(b) then yelled, "You can take me to jail!" at Det. Verdesoto and allegedly made physical contact with his chest. In response, Det. Verdesoto decided to arrest § 87(2)(b) and took him to the ground (**Allegations J and K**). Det. Verdesoto and PO O'Brien then handcuffed § 87(2)(b) and the officers transported him the PSA 3 stationhouse where a bag of marijuana and a bag of cocaine were recovered from his person. § 87(2)(b) was transported by Det. Verdesoto, PO O'Brien, and PO Allen to the 81st Precinct Detective Squad for further debriefing and then transported back to the PSA 3 stationhouse. § 87(2)(b) was charged with § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

This case was closed past 90 days because of an 81 day wait to receive essential documents from PSA 3.

§ 87(2)(g)

§ 87(2)(b)'s mother, § 87(2)(b), provided two cell phone videos of this incident marked video# 1 and video# 2. Both videos are attached below:

Video# 1:



201606686_20161116_1334_DM.mp4

Video# 2:



201606686_20161116_1335_DM.mp4

Page 2

CCRB Case # 201606686

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation due to § 87(2)(b)'s arrest without a DAT.
- On November 15, 2016, a FOIL request confirmed that no Notices of Claim were filed by § 87(2)(b) or § 87(2)(b) for this incident (01 Board Review).

- § 87(2)(b), § 87(2)(c)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been involved with two other CCRB cases. § 87(2)(b)
- § 87(2)(b) was also involved with CCRB case# § 87(2)(b) (04 Board Review).
- Det. Verdesoto has been a member of the NYPD for 11 years and has 14 previous CCRB cases involving 27 allegations and no substantiated allegations. § 87(4-b), § 87(2)(g)
- Det. Verdesoto has five previous force allegations in CCRB#'s 200602643, 200805110, 200907901, 200914963, and 200912841. Of these allegations four were exonerated and one was substantiated. Three of these force allegations involved Det. Verdesoto taking individuals to the ground. Det. Verdesoto also has a stop/question allegation in 200701329 that was truncated, § 87(2)(b), a search allegation in 200805110 that was exonerated, and a frisk allegation in 200915725 that was truncated.
- PO O'Brien has been a member of the NYPD for 9 years and has three previous CCRB cases involving three allegations and no substantiated allegations. § 87(2)(g)
- PO Allen has been a member of the NYPD for eight years and has two previous CCRB cases involving five allegations and no substantiated allegations. § 87(2)(g)

Potential Issues

- § 87(2)(b) did not cooperate with providing a verified statement.
- Contact attempts to § 87(2)(b) and § 87(2)(b) were exhausted without receiving a response.
- Essential documents requested from PSA 3 on August 5, 2016, were not received until October 26, 2016.
- In his original complaint, § 87(2)(b) mentioned a second incident in which he was allegedly intentionally hit by an RMP on an unknown date in July 2016. However, § 87(2)(b) did not want this second incident to be investigated.

Explanation of Subject Officer Identity

§ 87(2)(g)

Findings and Recommendations

Allegations Not Pleaded

- § 87(2)(b) alleged that Det. Verdesoto searched “the front pocket of his briefs.” However, no underwear was exposed, no clothing removed, and no skin-to-skin contact occurred under his briefs. § 87(2)(g) (05 Board Review).
- In video# 1 a voice is heard yelling, “Back the fuck up!” § 87(2)(g) (06 and 07 Board Review).
- § 87(2)(b) alleged in his initial telephone statement that at the PSA 3 stationhouse Det. Verdesoto instructed him to remove his clothes. However, in his interview § 87(2)(b) stated that he never actually removed any clothing. § 87(2)(g) (05 Board Review).
- § 87(2)(b) alleged, and Det. Verdesoto confirmed, that he searched § 87(2)(b) at the scene following his arrest and inside the PSA 3 stationhouse. § 87(2)(g) (05 Board Review).
- Although § 87(2)(b) said that he asked for all the officers’ names and shield numbers, video# 1 showed that § 87(2)(b) only directly asked Det. Verdesoto. § 87(2)(g) (05-07 Board Review).
- Although PO Allen and PO O’Brien said that § 87(2)(b) was under arrest when first stopped, § 87(2)(b)’s arresting officer, Det. Verdesoto, said that § 87(2)(b) was not under arrest until the point where Det. Verdesoto used force against him, which is corroborated by Video# 1. § 87(2)(g) (06-07 and 12-14 Board Review).

Allegation A –Abuse of Authority: Detective Wilson Verdesoto stopped § 87(2)(b)

Allegation B –Abuse of Authority: Police Officer Christian Allen stopped § 87(2)(b)

Allegation C –Abuse of Authority: Police Officer Robert O’Brien stopped § 87(2)(b)

§ 87(2)(b) and his friends, § 87(2)(b) and § 87(2)(b) had gone into Crown Fried Chicken, located at 234 Ralph Avenue in Brooklyn, to purchase food and were standing outside eating when an unmarked RMP drove onto the scene. § 87(2)(b) said that he and his friends were probably drinking and smoking weed during the incident, but he was not sure. § 87(2)(b) was not under the influence of any other drugs. Det. Verdesoto, PO O’Brien, and PO Allen got out of their RMP and stopped § 87(2)(b)

and questioned him. When asked what questions the officers asked, § 87(2)(b) said the officers did not ask any questions (05 Board Review).

In his original complaint, § 87(2)(b) said he was inside a vehicle with unknown individuals when he observed an unmarked RMP drive past, make a U-turn and pass him again. § 87(2)(b)'s vehicle then parked near 234 Ralph Avenue and they went into the store. § 87(2)(b) and the others came back outside onto the sidewalk and the unmarked RMP made another U-turn and parked next to § 87(2)(b). An officer told § 87(2)(b) to walk up to their RMP, but he refused (09 Board Review).

In a second phone statement, § 87(2)(b) said that after he was subsequently arrested, he was transported to the 81st Precinct for questioning by homicide detectives (10 Board Review).

§ 87(2)(b) said he, § 87(2)(b) and § 87(2)(b) had just purchased food from Crown Fried Chicken and walked to the corner when Det. Verdesoto, PO O'Brien, and PO Allen pulled up in an unmarked car. No one in the group was smoking anything or drinking anything when the officers drove up, but § 87(2)(b) was eating his food. Det. Verdesoto, PO O'Brien, and PO Allen got out of their vehicle, showed their shields briefly and then started asking them questions (11 Board Review).

§ 87(2)(b)'s videos did not capture this portion of the incident (06-08 Board Review).

Det. Verdesoto said he observed a group of three to four males verbally arguing at the corner of Ralph Avenue and Bainbridge Street in Brooklyn. This argument never got physical and he could not hear what was being said. As Det. Verdesoto drove closer to the group, the males looked toward the officers' RMP and Det. Verdesoto assumed that they identified him and his partners as officers due to their frequent patrols. One of the males walked away from the group and up Ralph Avenue while stuffing an object somewhere in the back of his waistband. Det. Verdesoto did not see how far the male reached into his waistband and could not see the object at all, but said that it was nothing big and did not look like a weapon. Det. Verdesoto did not recall observing any bulges on the male's person. Det. Verdesoto did not see the male make any other suspicious movements. As Det. Verdesoto drove closer, he recognized this male as § 87(2)(b) due to a tattoo of a cross between his eyes. Det. Verdesoto knew § 87(2)(b) due to a previous briefing, where he was informed that § 87(2)(b) had an active I-Card with the 81st Precinct Detective Squad for a shooting. Det. Verdesoto first said that he believed that the I-card stated probable cause to arrest, but then said he did not remember. At the time of the incident, Det. Verdesoto knew § 87(2)(b) was a member of the Two Stacks Gang, whose members had very high incident profiles. Det. Verdesoto never interacted with § 87(2)(b) prior to this incident, but saw him in pictures with his gang affiliates. Det. Verdesoto drove his RMP right up to § 87(2)(b) and stopped him by approaching him and speaking to him. PO O'Brien and PO Allen exited the RMP at the same time. The original intention was to speak to § 87(2)(b) and then call the 81st Precinct Detective Squad to ensure that the I-Card was still active and, if so, take § 87(2)(b) into custody. When asked what suspicions he had at the point he stopped § 87(2)(b) aside from the active I-Card, Det. Verdesoto referenced the previous actions he had seen § 87(2)(b) take by saying, "Um, I mean him walking away. I don't know it could have been a small little knife that he put back there. I wanted to sort of keep him. And then when I saw that it was him, it just gave me more reason to stop him and talk to him and investigate further." § 87(2)(b) was never free to leave before being placed under arrest as Det. Verdesoto was still conducting his investigation. Det. Verdesoto was not sure

whether any action was taken against other members of the group, because he was focused on § 87(2)(b) (12 Board Review).

PO Allen and PO O'Brien generally corroborated Det. Verdesoto's testimony that the officers observed § 87(2)(b) arguing with three black males who all noticed the officers. PO Allen and PO O'Brien also corroborated that § 87(2)(b) separated from the group and reached his hand into the back of his waistband in the manner described by Det. Verdesoto. PO Allen and PO O'Brien could not see the object that § 87(2)(b) allegedly put in his waistband and did not observe any bulges on his person. PO Allen and PO O'Brien corroborated that the officers recognized § 87(2)(b) prior to the stop. PO Allen confirmed that § 87(2)(b) had an active I-Card with probable cause to arrest and said that he and the other officers were briefed on this I-Card within a day or two of the incident. PO O'Brien was not sure when the officers were briefed on this I-Card or by whom, but said that it was probably within a week of the incident. PO O'Brien thought the I-Card gave probable cause to arrest, but he was not sure. Both PO Allen and PO O'Brien confirmed that the I-Card was the primary reason for the stop. PO Allen and PO O'Brien said that no action was taken against the other individuals other than telling them to stay back (13 and 14 Board Review).

Officers must have reasonable suspicion that a person has committed or is about to commit a crime to stop that individual (People v. Ortiz, 2011 NY Slip Op 51036U; 2011 N.Y. Misc.) (15 Board Review).

An individual sticking their hand into their waistband, especially without the presence of a bulge, does not alone justify a stop because "behavior which is susceptible of innocent as well as guilty interpretation cannot constitute probable cause and innocuous behavior alone will not generate a founded or reasonable suspicion that a crime is at hand" (People v. Miller, 121 A.D.2d 335; 504 N.Y.S.2d 407 1986 NY App Div) (16 Board Review).

The fact that a defendant appeared startled at the sight of officers and began to walk away is, "innocuous behavior which will not generate a founded or reasonable suspicion that a crime is at hand" (People v. Campbell, 160 A.D. 2d 363; 554 N.Y.S. 2d 103; 1990 N.Y. App Div.) (29 Board Review).

I-Card# § 87(2)(b) dated July 15, 2016 and filed by Det. Edmond McDonald of the 81st Precinct Detective Squad lists § 87(2)(b) as a suspect only with no probable cause to arrest. This I-Card was active at the time of this incident (17 Board Review).

I-Card# § 87(2)(b) dated October 1, 2015 and filed by Det. Michael Jimenez of the 81st Precinct Detective Squad lists § 87(2)(b) as a perpetrator with probable cause to arrest. This I-Card was cancelled at the time of this incident as it was resolved on October 13, 2015 via arrest# § 87(2)(b) (17 and 21 Board Review).

I-Card# § 87(2)(b) dated June 29, 2013 and filed by Det. Raymond White of the 81st Precinct Detective Squad lists § 87(2)(b) as a suspect only with no probable cause to arrest. This I-Card was active at the time of this incident (17 Board Review).

P.G. 208-23 says that if an I-Card says "Suspect Only-No Probable Cause to Arrest" officers must not handcuff or otherwise physically restrain the individual and must inform the individual that he is free to leave at any time (18 Board Review).

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

Allegation D –Abuse of Authority: Officers questioned § 87(2)(b)

Allegation E –Abuse of Authority: Officers stopped § 87(2)(b) **and an individual.**

Allegation H –Abuse of Authority: Officers searched § 87(2)(b) **and an individual.**

§ 87(2)(b) alleged that § 87(2)(b) and § 87(2)(b) were also stopped and searched.

§ 87(2)(b) said that the officers did not stop or search anyone, but asked what they were doing, where they were going, and why there were so many of them out.

On August 22, 2016, a call was placed to § 87(2)(b) on a number provided by § 87(2)(b). § 87(2)(b) was scheduled an interview for August 30, 2016. § 87(2)(b) missed his scheduled interview without calling ahead to cancel or reschedule. On August 31, 2016, § 87(2)(b) was called back on this number, but a female answered the call and said that it was a wrong number. A search of BADs yielded one old number for § 87(2)(b) and three numbers for people he called during old arrests. On September 8, 2016, calls were placed to each of these numbers. One was a wrong number, one number was not working, and the third number, for an individual called during a prior arrest, rang without going to voicemail. Between August 17, 2016 and September 7, 2016, two please call letters and one missed appointment letter were sent to § 87(2)(b) and not returned by the US Postal Service. Searches of CTS, COLES, Lexis Nexis, WhitePages, DMV, and CLEAR yielded no additional contact information for § 87(2)(b).

Despite requests, § 87(2)(b) provided no contact information for § 87(2)(b) or § 87(2)(b). Searches of CTS, Lexis Nexis, and CLEAR yielded multiple addresses and phone numbers for § 87(2)(b). Between August 17, 2016 and September 28, 2016, 20 calls were placed to these various numbers with six voicemails left. Also between these dates, seven please call letters were sent to § 87(2)(b). Also between these dates, three § 87(2)(b) called the CCRB responding to contact attempts, but said they had no knowledge of the incident. Searches of BADs, COLES, and WHITEPAGES yielded no contact information for § 87(2)(b). Searches of CTS, BADs, DMV, LEXIS NEXIS, CLEAR, and WHITEPAGES, yielded no contact information for § 87(2)(b). Searches could not be performed for § 87(2)(b) because § 87(2)(b) did not know his real name.

On October 3, 2016, searches of the Department of Correction of NYC and NYS websites confirmed that § 87(2)(b) and § 87(2)(b) were not incarcerated.

§ 87(2)(g)

§ 87(2)(g)

Allegation F –Abuse of Authority: Detective Wilson Verdesoto frisked § 87(2)(b)

Allegation G –Abuse of Authority: Detective Wilson Verdesoto searched § 87(2)(b)

§ 87(2)(b) said Det. Verdesoto searched him, by patting down his pants and waist and then searching inside his pants pockets and waist band. During this search, Det. Verdesoto stuck his hand inside the waistband of § 87(2)(b)'s pants and also searched inside the pocket on the front of his briefs. While being searched, § 87(2)(b) told the officers that he had marijuana on him, but they said that was not what they were looking for. Other than his bag of marijuana, § 87(2)(b) had his wallet, cell phone, and keys on his person. § 87(2)(b) did not specify the size of his bag of marijuana. The officers did not find any contraband on § 87(2)(b) or his friends and so told them they were good and could, “walk off.” § 87(2)(b) said that he was not handcuffed when he was initially stopped and searched (05 Board Review). § 87(2)(b) did not allege any frisks or searches at the scene in either of his previous phone statements (09 and 10 Board Review).

§ 87(2)(b) said the officers looked at the group to see if anyone had anything, but they did not pat people down (11 Board Review).

§ 87(2)(b)'s videos did not capture the initial portion of the incident where Det. Verdesoto frisked him or allegedly searched him prior to his arrest (06-08 Board Review).

Det. Verdesoto was asked whether he frisked or searched § 87(2)(b) when he first stopped him. Det. Verdesoto said, “I’m not sure if I did or not. Most likely I did because I saw him stuff something... to make sure it wasn’t a weapon.” Later, Det. Verdesoto said that he believed he frisked § 87(2)(b) on first stopping him, but he did not go into § 87(2)(b)'s pockets or waistband. Det. Verdesoto did not remember at all what § 87(2)(b) was wearing. Det. Verdesoto did not recall whether § 87(2)(b) was holding anything in his hands. Det. Verdesoto said that § 87(2)(b)'s demeanor at this point was calm and that he was telling other individuals to “chill out” when they became agitated and tried to incite him. The basis for the frisk prior to § 87(2)(b) being arrested was the I-card, which allowed Det. Verdesoto to frisk and search him. Det. Verdesoto did not verify that § 87(2)(b)'s I-Card was still active prior to frisking him. Det. Verdesoto also cited § 87(2)(b) separating from the group and reaching into his waistband, (as discussed in more detail above with allegations A, B, and C), as contributing to his decision to frisk § 87(2)(b). When asked whether there was any other reason to fear that § 87(2)(b) might have a weapon on him, Det. Verdesoto said that § 87(2)(b) was known to carry a weapon and conduct shootings. Det. Verdesoto did not remember if § 87(2)(b) made any comments about narcotics he had on him when first stopped. Det. Verdesoto did not remember whether § 87(2)(b) said he had “weed” on him. No contraband was recovered from § 87(2)(b) prior to his arrest (12 Board Review).

PO Allen and PO O'Brien generally confirmed Det. Verdesoto's testimony of § 87(2)(b)'s movements and that they could not see the alleged object that he put into his waistband. PO Allen and PO O'Brien did not observe any other suspicious behavior from § 87(2)(b) aside from him walking away while placing an unidentified object in his waistband. Neither PO Allen nor PO O'Brien were sure whether Det. Verdesoto frisked or searched § 87(2)(b) at the time of the stop, because they were focused on crowd control (13 and 14 Board Review).

An individual sticking their hand into their waistband, in the absence of a bulge, does not alone justify a frisk because "behavior which is susceptible of innocent as well as guilty interpretation cannot constitute probable cause and innocuous behavior alone will not generate a founded or reasonable suspicion that a crime is at hand" (People v. Miller, 121 A.D.2d 335; 504 N.Y.S.2d 407 1986 NY App Div.) (16 Board Review).

§ 87(2)(g)



Allegation I –Abuse of Authority: Detective Wilson Verdesoto refused to provide his name and/ or shield number to § 87(2)(b)

§ 87(2)(b) said he was upset because the officers stopped him, searched him, and then told him to "walk off" without even showing their shields. § 87(2)(b) therefore asked for Det. Verdesoto's name and shield number. § 87(2)(b) requested this information from a distance of less than two feet from Det. Verdesoto. Det. Verdesoto did not provide his name or shield number to § 87(2)(b). Det. Verdesoto did take his shield out of his shirt and display it, but § 87(2)(b) could not read the numbers because Det. Verdesoto held his shield backwards. § 87(2)(b) told Det. Verdesoto that he could not read the numbers and asked for his name. When he was shown video# 1, § 87(2)(b) said that the officer he was speaking to never later provided his name to him (05 Board Review).

In his original complaint, § 87(2)(b) said Det. Verdesoto displayed his shield but when asked for his name, Det. Verdesoto said, "I don't gotta tell you my name" (09 Board Review).

In a second phone statement, § 87(2)(b) said he asked Det. Verdesoto to take his shield out and asked for his name. § 87(2)(b) then asked, "You don't want to tell me your names?" Det. Verdesoto replied, "We don't gotta tell you our names" (10 Board Review).

§ 87(2)(b) said § 87(2)(b) asked the officers to show him their shields, but they failed to do so and never complied with his requests to identify themselves (11 Board Review).

Upon reviewing video#1, the video begins dark with the camera focused on Det. Verdesoto from a short distance away. § 87(2)(b) appears to be filming right in front of the officer. Numerous individuals are seen watching the incident from the sidewalk. At 00:04 § 87(2)(b) is heard saying, "Y'all got no badges out. Let me see y'all badges." Det. Verdesoto reaches into his shirt and pulls out his shield, which has a black mourning band around it, and holds it up so that it is backwards. A female is heard in the background saying, "We can't read that." § 87(2)(b) yells repeatedly, "What's your name?" while making a clapping sound and saying they could take him to jail. At no point do you hear Det. Verdesoto verbally respond to § 87(2)(b) (06 and 07 Board Review).

Det. Verdesoto said § 87(2)(b) was initially calm and telling the other individuals to chill out, but he became suddenly agitated and asked Det. Verdesoto, "What's your fucking name?" and "What's your fucking shield number?" § 87(2)(b) walked right in front of Det. Verdesoto who told § 87(2)(b) to calm down and back up. Det. Verdesoto also provided his name and shield number right away when asked for it. Det. Verdesoto took his shield out, held it up in § 87(2)(b)'s face, and said, "Here's my shield number" to § 87(2)(b). Det. Verdesoto did not recall § 87(2)(b) complaining that he could not read his shield. Det. Verdesoto said that § 87(2)(b) then put his finger approximately one inch from Det. Verdesoto's face and yelled, "What's your fucking name? What's your fucking name?" § 87(2)(b) never complained that he did not get Det. Verdesoto's name or shield number. Det. Verdesoto was not sure how many times he provided his name and shield number to § 87(2)(b) but he did so at least once. Det. Verdesoto was shown video# 1. Det. Verdesoto was shown the portion of the video at 00:09 where § 87(2)(b) begins to ask for his name repeatedly. It was pointed out to Det. Verdesoto that he could not be heard responding to § 87(2)(b) and was asked again whether he responded to § 87(2)(b)'s request for a name during the incident. Det. Verdesoto said that he did not hear himself respond, but pointed out that he was showing § 87(2)(b) his shield and, when § 87(2)(b) got really close, Det. Verdesoto did not have time to respond. Det. Verdesoto was reminded that he said he provided his name and shield number to § 87(2)(b) and was asked whether he provided his name and shield number to § 87(2)(b) prior to taking his shield out of his shirt on the video. Det. Verdesoto said that he did not remember, but he remembered providing the information at some point during the incident (12 Board Review).

PO Allen did not hear § 87(2)(b) request Det. Verdesoto's name or shield number. PO Allen did not hear Det. Verdesoto make any statements refusing to provide his name or shield number. PO Allen did not remember § 87(2)(b) complaining that Det. Verdesoto refused to provide his name or shield number (13 Board Review).

PO O'Brien did not recall whether § 87(2)(b) asked for Det. Verdesoto's name or shield number. PO O'Brien did not recall whether Det. Verdesoto ever provided his name or

shield number to § 87(2)(b) § 87(2)(b) did not complain that an officer refused to provide his name or shield number (14 Board Review).

P.G. 203-09 says that officers must clearly state their name, rank, shield, and command upon request or otherwise provide it (22 Board Review).

§ 87(2)(g)

[REDACTED]

Allegation J –Abuse of Authority: Detective Wilson Verdesoto arrested § 87(2)(b)

§ 87(2)(b) said that because he did not get the information he requested, he told the officers, “Take me to jail!” § 87(2)(b) may have raised his voice to an inappropriate tone, because he was upset when Det. Verdesoto did not provide his information, but he never touched any of the officers. § 87(2)(b)’s original complaint and phone statement were generally consistent with his CCRB testimony (09 and 10 Board Review).

§ 87(2)(b) said the officers did not comply with § 87(2)(b)’s request to identify themselves and so § 87(2)(b) got angry and began to yell at the officers. § 87(2)(b) then walked away from the officers, but Det. Verdesoto grabbed him and asked where he was going. § 87(2)(b) continued to yell and so Det. Verdesoto tackled him to the ground (11 Board Review).

Det. Verdesoto said that § 87(2)(b) was initially calm and told other agitated individuals to “chill out” when they tried to incite him, but then he became suddenly angry. Det. Verdesoto told § 87(2)(b) to calm down and back up, because he got close to the detective and held his finger approximately one inch from Det. Verdesoto’s face while yelling, “What’s your fucking name?” When § 87(2)(b) got close, his elbow made contact with Det. Verdesoto’s chest. When asked how hard § 87(2)(b) hit him in the chest with his elbow, Det. Verdesoto responded that he could not say how hard it was, because he was wearing his bullet proof vest. Det. Verdesoto felt the contact through his vest, so he assumed that the contact must have been significant. As soon as Det. Verdesoto felt § 87(2)(b) make contact with the his chest, Det. Verdesoto decided to place § 87(2)(b) under arrest for disorderly conduct and took § 87(2)(b) to the ground in a controlled manner (12 Board Review).

PO Allen did not see the alleged contact between § 87(2)(b) and Det. Verdesoto that preceded his arrest. PO O’Brien said that § 87(2)(b) was yelling and waving his arms and it looked like his elbow or arm made contact with Det. Verdesoto, but he was focused on crowd control and only observed this through the corner of his eye (13 and 14 Board Review).

Upon reviewing video# 1, at 00:08 § 87(2)(b) yells loudly, “What’s your name?” twice while making a clapping sound. Individuals on the side say, § 87(2)(b) as if to calm him

down. At 00:13 § 87(2)(b) yells, "You can take me to jail right now!" and the camera appears to move closer to Det. Verdesoto, but § 87(2)(b) cannot be seen to make contact with him. Det. Verdesoto is not heard giving § 87(2)(b) any orders to back up and § 87(2)(b)'s finger cannot be seen in Det. Verdesoto's face. Det. Verdesoto can be seen placing his shield back into his shirt and then reaching for § 87(2)(b) but no force used (06 and 07 Board Review).

NY Penal Law Section 240.20 says that a person is guilty of disorderly conduct when they use abusive or obscene language, create a hazardous or physically offensive condition by any act which serves no legitimate purpose, or engages in fighting, violent, tumultuous, or threatening behavior (23 Board Review).

Disorderly conduct applies to words and utterances coupled with an intent to cause public disorder (People v Tichenor, 89 NY 2d 769) (24 Board Review).

Private annoyances, however exasperating or reprehensible, are insufficient to constitute disorderly conduct where no breach of the peace has resulted or is imminent (People v Zongone, 102 Misc. 2d 265) (25 Board Review).

Abusive language said simply to annoy a person fall within constitutional free speech because they do not amount to "fighting words" which are defined as words by which their very utterance inflict injury or tend to incite an immediate breach of the peace (People v. Baker, 150 Misc 2d 713) (26 Board Review).

In order for an act to be considered disorderly conduct, it must take place in a public place, it must appear that there is a disturbance of the public order or a causing or consternation or alarm among a substantial segment of the community, or that such a disturbance is imminent (People v Balnis, 14 Misc 2d 928) (27 Board Review).

An individual "hollering" in and of itself is insufficient to justify a charge of disorderly conduct (People v Sternberg, 254 NYS 488) (28 Board Review).

§ 87(2)(g)

[REDACTED]

Allegation K –Force: Detective Wilson Verdesoto used physical force against § 87(2)(b)

§ 87(2)(b) said Det. Verdesoto tackled § 87(2)(b) to the ground and handcuffed him, exacerbating pre-existing nerve damage to his hand from a past stabbing. § 87(2)(b) did not physically resist the officers at all when they took him to the ground (05 Board Review). § 87(2)(b)'s original complaint and phone statement were generally consistent with his CCRB testimony (09 and 10 Board Review).

§ 87(2)(b) said § 87(2)(b) continued to yell and so Det. Verdesoto tackled him to the ground and handcuffed him. The officers did not use any other force against § 87(2)(b) after taking him to the ground. § 87(2)(b) never touched the officers before they took him to the ground. § 87(2)(b) did not observe any injuries on § 87(2)(b) (11 Board Review).

Det. Verdesoto said as soon as he felt § 87(2)(b) make contact with his chest, he decided to place § 87(2)(b) under arrest for disorderly conduct and took § 87(2)(b) to the ground in a controlled manner. Det. Verdesoto brought § 87(2)(b) to the ground and handcuffed him, but was not sure whether his partners helped bring § 87(2)(b) to the ground or handcuff him. § 87(2)(b) yelled and screamed, but did not physically resist being handcuffed. § 87(2)(b) was taken to the ground to make it easier to handcuff him. Aside from taking § 87(2)(b) to the ground, the only other force used to handcuff him was to pull his hands behind his back (12 Board Review).

PO Allen and PO O'Brien also confirmed that Det. Verdesoto took § 87(2)(b) to the ground in a controlled manner and that § 87(2)(b) did not appear to be injured or complain of any injuries afterward. Neither PO Allen nor PO O'Brien clearly saw the physical contact that § 87(2)(b) made with Det. Verdesoto (13 and 14 Board Review).

Upon reviewing video# 1, Det. Verdesoto is not heard giving § 87(2)(b) any orders to back up. § 87(2)(b)'s finger cannot be seen in Det. Verdesoto's face, and no contact is seen by § 87(2)(b) of Det. Verdesoto. § 87(2)(b) is heard yelling, "You can take me to jail!" Det. Verdesoto can then be seen placing his shield back into his shirt and then reaching for § 87(2)(b) although the force used is not captured. The camera shakes and a female yells, § 87(2)(b). The camera pans back and forth toward the ground and a male is heard cursing and yelling. Other male voices say, "That's it. Get back!" At 00:25 an officer is heard saying, "You're being detained right now." Other individuals yell, but what they say is not intelligible. At 00:29 a male is heard saying, "relax" repeatedly. The camera appears to move down the sidewalk, but is still panned low. At 00:36 a male is heard saying, "That's it! Guys! Guy!" Another male voice is heard saying, "Get the fuck off of him!" A third male voice is heard saying, "Why you locking him up?" A male voice is heard to reply, "It don't matter." At 00:40 a male voice is heard yelling, "Back up! Back the fuck up!" Another male voice is then heard saying, "Why the fuck y'all touching me?" At 00:46 another male voice is then heard saying, "Chill!" Handcuff clicking can then be heard (06 and 07 Board Review).

P.G. 221-01 says that officers must use only the reasonable force necessary to gain control or custody of a subject. When consistent with personal safety, officers will use de-escalation techniques to safely gain compliance from a subject to reduce or eliminate the necessity to use force (19 Board Review).

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

Squad: 3

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date